

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

RUBEN VALERIO MENDEZ	:	No. 11-CV-287
	:	
Plaintiff	:	KOSIK, D.J.
Vs.	:	
	:	Mannion, MJ
MARK SULLIVAN et al.	:	
	:	
Defendants	:	Electronically Filed

**STATEMENT OF UNCONTESTED FACTS**

Defendants, by and through their attorneys, Zimmerman, Lieberman & Tamulonis, submits the following Statement of Uncontested Facts:

1. Plaintiff was incarcerated in the Schuylkill County Prison on February 18, 2010.
2. The Schuylkill County Prison has an available grievance procedure, which is attached to the Affidavit of Deputy Warden David Wapinsky as Exhibit "A".
3. Under the grievance procedure, all grievances filed in the Schuylkill County Prison are forwarded to Deputy Warden David Wapinsky for his determination (Affidavit of Deputy Warden David Wapinsky, ¶¶ 2, 6).
4. Upon review of the grievances on file, the plaintiff correctly alleges there is a grievance procedure available at the Schuylkill County Prison and that he filed a grievance relating to the facts of the Complaint, which was timely filed on March 4, 2010, and marked Grievance #290 (Affidavit of Deputy Warden David Wapinsky, ¶ 8, Exhibit B).

5. The grievance was denied on March 23, 2010, for reasons set forth in Exhibit B (Affidavit Deputy Warden David Wapinsky, ¶9, Exhibit B).

6. Under the grievance policy, offenders who are dissatisfied with the response to their filed grievances have the right to appeal the decision. An appeal must be submitted in writing to the Warden within ten (10) days the offender receives a response to the grievance filed. The Warden's decision on the appeal will be final (Affidavit Deputy Warden David Wapinsky, ¶10, Exhibit A).

7. No appeal was filed or received within ten (10) days of March 23, 2010, the date the grievance was denied (Affidavit Deputy Warden David Wapinsky, ¶ 11).

8. Plaintiff, Ruben V. Mendez, failed to exhaust the grievance procedure and the grievance process was not completed as required (Affidavit Deputy Warden David Wapinsky, ¶ 12).

**ZIMMERMAN, LIEBERMAN & TAMULONIS**

BY: S/Frank L. Tamulonis, Jr.

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